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Security Council Committee established pursuant to resolution 1737 (2006)

Letter dated 9 August 2010 from the Permanent Representative of Belgium to the United Nations addressed to the Chairman of the Committee

Attached please find the national report of Belgium pursuant to Security Council resolution 1929 (2010), which calls upon all States to report to the Committee, within 60 days of its adoption, on the steps they have taken towards the effective implementation of this resolution (see annex).

(*Signed*) Jan **Grauls**
Ambassador
Permanent Representative of Belgium to the United Nations

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Annex to the letter dated 9 August 2010 from the Permanent Representative of Belgium to the United Nations addressed to the Chairman of the Committee

National reports to the Sanctions Committee established pursuant to resolution 1737 (2006)

Report of Belgium

Pursuant to paragraph 31 of Security Council resolution 1929 (2010), I have the honour to inform you about the steps taken by the Belgian Government to implement the measures imposed by paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23 and 24 of the above-mentioned resolution.

As stated in its previous reports[1] to the Security Council Committee established pursuant to resolution 1737 (2006), Belgium, as a member State of the European Union (EU), implements the provisions of the United Nations Security Council resolutions that fall within the scope of the competence of EU via EU Common Positions, Decisions and Regulations.

Before the adoption of Security Council resolutions 1737 (2006), 1747 (2007) and 1803 (2008), the European Union had already adopted a visa regime vis-à-vis Iran: Council Regulation 539/2001 of 15 March 2001 (and its subsequent amendments).[2] This Regulation requires nationals of Iran to be in possession of a visa when entering the European Union.[3]

Following the adoption of Security Council resolution 1929 (2010), Belgium and the other member States of the European Union have jointly implemented the restrictive measures against Iran imposed by that resolution by taking the following common measures:

The Council adopted European Council Decision 2010/413/CFSP of 26 July, which repeals Common Position 2007/140/CFSP.

Council Decision 2010/413 sets out the commitment of EU to implement all the measures contained in Security Council resolution 1929 (2010), and provides the basis for EU specific accompanying measures within the scope of the resolution, notably:

- Export ban on certain other items, in addition to those determined by the Sanctions Committee, which could contribute to Iran's nuclear-related programme or other programmes related to weapons of mass destruction
- Autonomous designations under the visa ban and the asset freeze, to be decided by the Council of EU, of persons and entities involved in proliferation-sensitive nuclear activities or in violations of Security Council resolutions, of individuals and entities of the Islamic Revolutionary Guard Corps and of the Islamic Republic of Iran Shipping Lines and its subsidiaries

[1] S/AC.50/2007/10 (2 March 2007), S/AC.50/2007/74 (6 June 2007), S/AC.50/2008/14 (13 May 2008).

[2] All common measures are published in the *Official Journal of the European Union*, available from http://eur-lex.europa.eu.

[3] Council Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.

- Enhanced vigilance over the activities of financial institutions within the jurisdiction of EU member States with banks and financial entities linked to Iran, notably through a prior authorization regime for all transactions above a certain amount
- Prohibition to open new branches and subsidiaries of Iranian banks in the European Union and to establish new banking relationships with Iranian banks
- Prohibition to provide insurance and reinsurance to Iranian entities
- Prohibition of sale, purchase and brokering of Government bonds
- Measures in the transport sector concerning the prohibition for Iranian cargo flights to have access to European Union airports and the prohibition to provide engineering and maintenance services to Iranian cargo flights.

Commission Regulation 423/2007 is still valid. It has been amended by Commission Regulation (EC) 441/2007 of 20 April 2007 and by Council Decision 2007/242 of 23 April 2007 as indicated above. In 2010, the European Union adopted the following:

(1) Implementing Regulations: Council Regulation (EU) No. 668/2010[2] of 26 July implementing article 7(2) of Council Regulation (EC) 423/2007 on restrictive measures against Iran. The Council adopted a regulation implementing article 7(2) of Council Regulation (EC) 423/2007 on restrictive measures against Iran in order to legally enforce the asset freeze for the new European Union autonomous designations of persons and entities.

(2) Amending Regulations

- Commission Regulation (EU) No. 532/2010.[2] Commission Regulation No. 532/2010 amends the Council Regulation by including the persons and entities designated by the Security Council on 9 June 2010 in the list of persons, entities and bodies subject to the asset freeze as set out in annex IV to Council Regulation 423/2007 (with the exception of Ireland and the United Kingdom).
- Council Regulation amending Council Regulation (EC) 423/2007 on restrictive measures against Iran: the Council will adopt in the near future a Council Regulation amending Council Regulation (EC) 423/2007 in order to implement the measures provided for in Council Decision 2010/413/CFSP of 26 July that fall under the competence of the European Union.

The above-mentioned Council Regulations are binding in their entirety and are directly applicable in all member States of the European Union. Regulation (EC) No. 423/2007 requires member States to determine the penalties applicable to infringements of their provisions. The penalties determined by Belgium are set out in the corresponding paragraphs.

As to paragraph 7 of Security Council resolution 1929 (2010), relevant economic actors in Belgium have been made aware of the provisions of the paragraph that prohibit Iranian investment in the field of uranium extraction, uranium enrichment and heavy water production, nuclear technology and ballistic missile technology.

As to paragraphs 8 and 9 of the resolution, Belgium has the following national legislation prohibiting the sale, supply, transfer or export of arms and related materiel[4] to Iran and the provision of brokering services and other services related to military activities:

- EU Council Regulation 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items and technology
- Law of 5 August 1991 (as amended on 25 March 2003),[5] concerning import, export and trans-shipment of arms, military materiel, law enforcement equipment and related technologies. This law:
  - Prohibits persons residing in Belgium or any Belgian national to trade arms or to facilitate in any way an arms deal without a permit from the Minister of Justice, or to perform any operation that could violate an embargo decided by an international organization to which Belgium is a member State (arts. 10 and 11). Violations are punished through penal sanctions in article 12 (fines and/or imprisonment)
  - Stipulates that export licences are to be refused, inter alia, if not compatible with the embargos decided by the United Nations or the Organization for Security and Cooperation in Europe (art. 4)
- Implementation of export control regulations is enforced through Law of 11 September 1962 on import, export and transit of goods with penal and/or administrative sanctions.

As to paragraph 10 of resolution 1929 (2010), Belgium is implementing the Schengen Convention (Convention for implementation of the Schengen Agreement, art. 5 (e)); as regards restrictions on admission (visa ban), Belgium has the following national legislation, which together with Council Decision 2010/413/CFSP, and Council Regulation (EC) No. 539/2001 provides the basis for refusal of admission and denial of requests for a visa:

- The lists in the annexes are transmitted to Belgian diplomatic and consular posts with instructions not to deliver visas to the persons mentioned in the lists (Schengen, art. 5 (e))
- Law of 15 December 1980 on access to the territory: if a person not allowed on Belgian territory should arrive at the borders of Belgium, this person would be sent back.

As to paragraphs 11, 12 and 19 of the resolution, the Ministry of Finance (Administration of the Treasury) is competent for assets freeze, according to Regulation 423/2007. Besides the Ministry of Finance, the Belgian Financial Intelligence Unit (CTIF-CFI) also has a role to play:

- Further to Regulation 423/2007 as amended by Regulation 1110/2008, the Belgian Law of 11 January 1993 relating to prevention of the use of the financial system for money-laundering or the financing of terrorism was amended on 12 November 2008. According to article 11bis, 1 (d), financial

[4] This legislation should apply to all goods included in the Common Military List of the European Union (see *Official Journal of the European Union* C 69, 18.3.2010).

[5] See Belgian laws and regulations, available from http://www.juridat.be/cgi_loi/legislation.pl.

and credit institutions pertaining to article 18 of the Regulation must transmit any suspicion to the Belgian Financial Intelligence Unit. The Unit is the national focal point for receipt and treatment of declarations of suspect transactions. The Unit has at its disposal other necessary information to check the declarations of suspect transactions (art. 33 of Belgian Law). If the Unit comes upon serious hints of money-laundering or other suspect activities, it transmits the information to the Federal Prosecutor (art. 34 of Belgian Law). Moreover, financial and credit institutions have to declare their activities with Iranian banks (among others, the Saderat Bank)

- CTIF-CFI also makes sure that companies in the banking and insurance sectors in Belgium are informed about the provisions of resolution 1929 (2010). They communicate with the particular sector through the professional federation (FEBELFIN for banks and ASSURALIA for insurance companies)

- As to violations, the Belgian law of 13 May 2003 relating to the implementation of restrictive measures provided for in European Union regulations or decisions implementing European Union regulations in its article 6 provides that such violations will be punished with imprisonment from eight days to up to five years and a fine of 25 to 25,000 euros

- The Ministry of Finance of Belgium has declared that small amounts have been frozen in relation to the Melli Bank and the Sepah Bank.

Nota bene concerning paragraph 19 and annex III: the entity IRISL Benelux no longer exists since 17 February 2009. As a consequence, no particular implementing measures can be taken by Belgian authorities regarding IRISL Benelux.

As to paragraph 13, Belgian Customs (Ministry of Finance) and the Belgian Agency for International Trade has been informed of the provisions of resolution 1929 (2010).

As to paragraph 14, the Ministry of Justice of Belgium (Weapons Unit) has no information about export or transit of weapons to or with Iran. They are particularly vigilant. The attention of the Ministry of Interior has been brought to that matter as well.

As to paragraphs 15, 16 and 17:

- The Ministry of Defence has informed that all inspections are consistent with international law, in particular the law of the sea; that inspections and seizure of prohibited material is within the capacities of the Belgian Armed Forces, which have been trained for these kinds of missions and have the operational capabilities to do so. As to inspection, the Belgian Army notes that the consent of the flag State is required and that such consent would be rather unlikely. As to seizing prohibited products (size and weight of the items, identification of the items) and disposing of them (procedures, safety, security), the Belgian Army notes that there is no alternative but to seize the vessel itself. The Belgian Army would report according to paragraph 17

- The Ministry of Transport (Section for Sea Transportation) has mentioned the existence of a Memorandum of Understanding between Belgium and Iran, according to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (1978) that provides for mutual verification of the capacities of navigating officers. However, this Memorandum of Understanding is hardly used.

As to paragraph 18 of resolution 1929 (2010), the four seaports of Belgium (Antwerp, Oostende, Zeebrugge, Ghent) have been informed of paragraph 18 of resolution 1929 (2010).

As to paragraph 20, which pertains to available information on transfers or activity by the Iran Air cargo division or vessels linked to IRISL, Belgium has drawn the attention of the competent authorities (Ministries of Justice and the Economy) to these two Iranian entities. The National Bank of Belgium has declared that it does not have any annual accounts for either IRISL or Iran Air. The Ministry of Transport (Air Section) is competent to check air traffic. The Ministry of Transport declares that air traffic from Iran to Belgium is virtually non-existent.

As to paragraph 21, further to Regulation 423/2007, as amended by Regulation 1110/2008, the Belgian Law of 11 January 1993 relating to prevention of the use of the financial system for money-laundering or the financing of terrorism was amended on 12 November 2008. According to article 11bis, 1 (d), financial and credit institutions pertaining to article 18 of the Regulation transmit any suspicion to the Unit for Financial Information (in Belgium: the Belgian Financial Intelligence Unit, CTIF-CFI). The Unit is the national focal point for receipt and treatment of declarations of suspect transactions. The Unit has at its disposal other necessary information to check declarations of suspect transactions (art. 33 of Belgian Law). If the Unit comes upon serious hints of money-laundering or other suspect activities, it transmits the information to the Federal Prosecutor (art. 34 of Belgian Law). Moreover, financial and credit institutions have to declare their activities with Iranian banks (among others, the Saderat Bank). Together with CTIF, the Belgian Commission for Banking and Finance (Commission Bancaire et Financière (CBF)) has a role of supervision and control. This is provided for by an administrative document (circulaire) of CBF of 6 April 2010. The document recommends vigilance vis-à-vis clients to prevent the use of the financial system for purposes of money-laundering or financing of terrorism and to prevent the financing of weapons of mass destruction.

As to paragraph 22 of resolution 1929 (2010), its provisions have been transmitted widely to Belgian competent authorities (among others, to the Ministry of the Economy).

As to paragraph 23, CBF is aware of the prohibition concerning the opening of banks or acquisition of stock in Belgian financial institutions by Iranian institutions. The Belgian Financial Intelligence Unit has reminded CBF of this obligation. There have been no such requests in the past. There is no Iranian bank in Belgium and no participation of Iranian interests in Belgian financial institutions.